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OFFICE OF PETITIONS

In re Application of :
Shiga et al. :
Application No. 10/743,103 : DECISION GRANTING
Filed: 29 April, 2004 : PETITION
Attorney Docket No. 117386.99 :

This is a decision in reference to the paper styled "Petition Requesting Withdrawal of Notice of Incomplete Reissue Application" filed on 29 April, 2004. In view of the relief requested, the paper is treated as a petition under 37 CFR 1.182 requesting that (1) the application papers deposited 23 December, 2003, taken together with the papers which accompany the present petition, be accepted as a complete application, and (2) that the application be accorded a filing date of 23 December, 2003.

The petition is before the Office of Petitions of the United States Patent and Trademark Office.

The petition is **GRANTED**.

The application was deposited on 23 December, 2003, as a reissue application for broadening the claims of U.S. Patent No. 5,760,485. The application as deposited did not include a copy of the specification, including at least one claim, or drawings. On 19 April, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Reissue Application, stating that the application was missing, *inter alia*, the specification, claims, and drawings. The Notice further stated that the filing date of the application would be the date that a specification, including at least one claim, and the drawings were received. A two (2) month period for reply was set. In response, on 29 April, 2004, petitioner filed, *inter alia*, a copy of U.S. Patent No. 5,760,485.

A filing date of 23 December, 2003, is requested based on the deposit of application papers made on that date. As this is an

application for reissue, the content of the specification, claims and drawings, and its timeliness for filing, are not in question and were not in question on the date of deposit. This is so, even though the deposited application papers did not contain the specification, including the claims, and the drawings.

Therefore, on petition under 37 CFR 1.182, the Commissioner may excuse the delay in supplying the omitted specification, claims, and drawings, and accord the application, including the specification, including the claims, and drawings, the requested filing date.

Since the present petition was necessitated by petitioners' error in not supplying a copy of the original patent specification, claims, and drawings on filing, the petition fee will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 23 December, 2003, using the application papers filed on that date and the specification, claims, and drawings of U.S. Patent No. 5,760,485 that are supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions